

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

SHAWN DRUMGOLD,

Plaintiff

-VS-

TIMOTHY CALLAHAN, et al,

Defendants

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) C.A. No. 04-11193-NG

) Pages 1 - 124

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JURY TRIAL - DAY ONE
BEFORE THE HONORABLE NANCY GERTNER
UNITED STATES DISTRICT JUDGE

United States District Court
1 Courthouse Way, Courtroom 2
Boston, Massachusetts
March 5, 2008, 10:00 a.m.

LEE A. MARZILLI
OFFICIAL COURT REPORTER
United States District Court
1 Courthouse Way, Room 3205
Boston, MA 02210
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1 APPEARANCES:

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5 Massachusetts, 02108, for the Plaintiff.

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9 JOHN P. ROACHE, ESQ., 66 Long Wharf, Boston,
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1 PROCEEDINGS

2 THE COURT: You can be seated. Let me first deal
3 with some preliminary matters. I will instruct the jury
4 generally at the beginning as to what the case is about
5 deriving from the form instructions.
6 Ms. Scapicchio, you had asked for a supplemental
7 instruction, which was also consistent with what you had said
8 in the Globe this morning, that I had precluded you from
9 arguing innocence. I have not. What I have said is that the
10 issue of innocence or guilt bears on the question of damages;
11 and if you open that door, the defendants will open the door
12 to their perceptions of the guilt or innocence of
13 Mr. Drumgold as well; and that in the first part of the case
14 with respect to the question of whether there was a wrongful
15 conviction, innocence or guilt is not relevant to that. But,
16 again, if you wanted to show motive or context, then that's a
17 door that you, if you open, you open the door to their
18 counter-charges. I haven't precluded you from arguing that
19 at all. It's just the implications of that will have -- in
20 other words, if you do, it will have implications for the
21 scope of the trial. And you, as I said over and over again,
22 hold the key.

23 MS. SCAPICCHIO: Yes, your Honor.

24 THE COURT: Okay.

25 There's an issue with respect to a juror, I

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1 understand? Is that right?

2 MS. SCAPICCHIO: Yes, your Honor.

3 THE COURT: Does anyone know which witness he said
4 he knows?

5 THE CLERK: No.

6 THE COURT: Okay. And then there is an issue with
7 respect to an exhibit, I understand.

8 MS. SCAPICCHIO: Yes, your Honor. I expect my
9 first will be Ricky Evans. There are three agreed-upon
10 exhibits that I would need to introduce through Mr. Evans,
11 and there is also one unagreed exhibit that I am seeking to
12 introduce with respect to Mr. Evans. The unagreed exhibit is
13 CCCCC, which I don't know if we're going to say that in front
14 of the jury, but this is a copy of what appears to be two
15 separate records of Ricky Evans, one that is dated 6/15/2006,
16 and one that is dated 5/8/2006. The original one, 5/8/2006,
17 doesn't appear to have the violations and cases that stem
18 from --

19 THE COURT: Show me what you're looking at because
20 my C-5 is not the same thing as your C-5.

21 MS. SCAPICCHIO: I'm sorry, your Honor. Oh, you
22 know what? It's an amended list that they just gave us this
23 morning.

24 THE COURT: All right, so this is a probation
25 document?

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1 was two on the first floor; and there was one, like, up the
 2 street a little bit, like, toward the corner of Charles
 3 Street and Hancock Street. And they had put me in a car and
 4 they had took me down to the Howard Johnson's Hotel on Boston
 5 Street.
 6 Q. Okay. Did you know why you were being brought down to
 7 the Howard Johnson's Hotel on Boston Street?
 8 A. I think it was because of the conversation we had of
 9 Tiffany Moore.
 10 Q. Okay. And when you got to the hotel, what happened?
 11 A. Uhm, I was put up in the hotel where actually --
 12 actually it was where I was living at.
 13 Q. You were living at the hotel. How long did you live at
 14 the hotel?
 15 A. Eight months, eight, nine months, somewhere around
 16 there.
 17 Q. Okay. And when you say you lived at the hotel, did you
 18 stay there every night?
 19 A. Yes.
 20 Q. And did you pay a bill? Did you get a bill from the
 21 Howard Johnson's?
 22 A. No, I did not.
 23 Q. Do you know who paid the bill?
 24 A. No, I do not.
 25 Q. Okay. But you remember Detective Callahan and/or

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1 Detective McDonough bringing you to the Howard Johnson's?
 2 A. Yes.
 3 Q. Okay. And who signed you in to the Howard Johnson's
 4 Hotel?
 5 A. Detective Callahan.
 6 Q. Detective Callahan. And did somebody accompany you to a
 7 room?
 8 A. I think -- I think, yes, they did.
 9 Q. Okay, who was that?
 10 A. I think it was Detective -- it was either
 11 Detective Callahan or Detective McDonough.
 12 Q. Okay. And do you remember where your room was within
 13 the Howard Johnson's?
 14 A. Yes, on the fifth floor.
 15 Q. Okay. And can you tell me, other than giving you a
 16 place to stay, were you able to order any meals at the Howard
 17 Johnson's?
 18 A. Yes.
 19 Q. Can you tell the jurors how that worked.
 20 A. Uhm, if I -- if say, for instance, if I got -- if I got
 21 up and I wanted to go eat or something, I would just go
 22 downstairs to the restaurant, you know, order whatever I
 23 want; and the only thing I did was sign for it, sign my room
 24 number.
 25 Q. And when you signed your room number, did you ever pay

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1 any of the bills for the food that you ate while you were at
 2 the Howard Johnson's?
 3 A. No, I did not.
 4 Q. And were you the only one who ate at the Howard
 5 Johnson's?
 6 A. No.
 7 Q. Were you able to invite other people to eat with you?
 8 A. Yes, I was.
 9 Q. Who else could you invite?
 10 A. Basically anybody I wanted.
 11 Q. Okay. And did you take advantage of that and invite
 12 people to share meals with you at the Howard Johnson's?
 13 A. Yes.
 14 Q. Okay. And other than putting you up at the Howard
 15 Johnson's and paying for your meals, did Detective Callahan
 16 give you anything else?
 17 A. If I needed, like, say if I needed money or something, I
 18 would just give him a call, I'd call him, and, you know,
 19 he'd, like, drop me off \$30, \$40, \$50.
 20 Q. Okay. And what did you tell him the 30 or \$40 or \$50
 21 was for?
 22 A. Like clothes, whatever. You know, like, if I didn't
 23 have any money and I needed money for traveling, buses, or
 24 get around town, you know, I'd call him and I'd ask him, and
 25 he'd bring it to me.

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1 Q. Now, when you were at the Howard Johnson's, was there
 2 anyone posted outside your hotel room?
 3 A. No.
 4 Q. Any police officer?
 5 A. No.
 6 Q. Did anyone ask you to stay within the hotel and not
 7 return to the Dorchester or Roxbury neighborhood?
 8 A. No.
 9 Q. Did you in fact return to the Dorchester or Roxbury
 10 neighborhood during the eight months that you stayed at the
 11 hotel?
 12 A. I was allowed to go wherever I wanted.
 13 Q. Okay, so you could leave the hotel anytime you wanted?
 14 A. Yes.
 15 Q. You didn't have to call anyone before you left?
 16 A. No.
 17 Q. And you were allowed to go back to the neighborhood?
 18 A. Yes.
 19 Q. Okay. Now, in addition to the hotel and the meals and
 20 the money, were there any other things that
 21 Detective Callahan did for you?
 22 A. Uhm, he would -- I remember we had went to Roxbury
 23 Court, District Courthouse, because back then I had warrants.
 24 Q. When you say "warrants," you had outstanding --
 25 A. Outstanding warrants.